

AMENDED IN SENATE APRIL 11, 2013  
AMENDED IN SENATE MARCH 21, 2013

**SENATE BILL**

**No. 287**

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**Introduced by Senator Walters  
(Coauthor: Senator Galgiani)**

February 14, 2013

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An act to amend Sections 3000.08 and 3451 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

SB 287, as amended, Walters. Prison: community supervision: eligibility.

Existing law requires that all persons released from prison on and after October 1, 2011, after serving a prison term for a felony, be subject to postrelease community supervision provided by a county agency for a period of 3 years immediately following release, except for persons released after serving a term for a serious felony, a violent felony, an offense for which the person was sentenced pursuant to the Three Strikes law, a crime where the person is classified as a High Risk Sex Offender, or a crime where the person is required to undergo treatment by the State Department of State Hospitals because the person has a severe mental disorder. Existing law requires these persons to be subject to parole supervision by the Department of Corrections and Rehabilitation following release from state prison and the jurisdiction of the court in the county in which the parolee is released or resides.

~~This bill would require any person who has been released after serving a term for an offense for which the person is required to register as a sex offender to be subject to parole supervision by the Department of Corrections and Rehabilitation. The bill would also~~ *additionally* require

any person who has a prior conviction for a serious or violent felony, ~~or a prior conviction for an offense for which the person is required to register as a sex offender,~~ *was classified as a High Risk Sex Offender at the time he or she was eligible for release from prison, or a conviction for an offense for which the person was required, as a condition of parole, to undergo treatment by the State Department of State Hospitals,* to be subject to parole supervision by the department and the jurisdiction of the court in the county in which the parolee is released or resides.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3000.08 of the Penal Code, as amended  
2 by Section 35 of Chapter 43 of the Statutes of 2012, is amended  
3 to read:

4 3000.08. (a) A person released from state prison prior to, or  
5 on or after, July 1, 2013, after serving a prison term, or whose  
6 sentence has been deemed served pursuant to Section 2900.5, for  
7 any of the following crimes, is subject to parole supervision by  
8 the Department of Corrections and Rehabilitation and the  
9 jurisdiction of the court in the county in which the parolee is  
10 released or resides for the purpose of hearing petitions to revoke  
11 parole and impose a term of custody:

12 (1) A serious felony as described in subdivision (c) of Section  
13 1192.7.

14 (2) A violent felony as described in subdivision (c) of Section  
15 667.5.

16 (3) A crime for which the person was sentenced pursuant to  
17 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)  
18 of subdivision (c) of Section 1170.12.

19 (4) Any crime for which the person ~~is required to register as a~~  
20 ~~sex offender pursuant to Chapter 5.5 (commencing with Section~~  
21 ~~290) of Title 9 of Part 1. eligible for release from prison is~~  
22 ~~classified as a High Risk Sex Offender.~~

23 (5) Any crime for which the person is required, as a condition  
24 of parole, to undergo treatment by the State Department of State  
25 Hospitals pursuant to Section 2962.

26 (b) A person released from state prison on or after January 1,  
27 2014, after serving a prison term, or whose sentence has been

1 deemed served pursuant to Section 2900.5, who has a prior  
2 conviction for any of the following, is subject to the jurisdiction  
3 of, and parole supervision by, the Department of Corrections and  
4 Rehabilitation and the jurisdiction of the court in the county in  
5 which the parolee is released or resides for the purpose of hearing  
6 petitions to revoke parole and impose a term of custody:

7 (1) A serious felony described in subdivision (c) of Section  
8 1192.7.

9 (2) A violent felony described in subdivision (c) of Section  
10 667.5.

11 (3) ~~A Any crime for which the person is required to register as~~  
12 ~~a sex offender pursuant to Chapter 5.5 (commencing with Section~~  
13 ~~290) of Title 9 of Part 1. was classified as a High Risk Sex Offender~~  
14 ~~at the time he or she was eligible for release from prison.~~

15 (4) *Any crime for which the person was required, as a condition*  
16 *of parole, to undergo treatment by the State Department of State*  
17 *Hospitals pursuant to Section 2962.*

18 (c) Notwithstanding any other law, all other offenders released  
19 from prison shall be placed on postrelease supervision pursuant  
20 to Title 2.05 (commencing with Section 3450).

21 (d) At any time during the period of parole of a person subject  
22 to this section, if any parole agent or peace officer has probable  
23 cause to believe that the parolee is violating any term or condition  
24 of his or her parole, the agent or officer may, without warrant or  
25 other process and at any time until the final disposition of the case,  
26 arrest the person and bring him or her before the court, or the court  
27 may, in its discretion, issue a warrant for that person's arrest  
28 pursuant to Section 1203.2.

29 (e) Upon review of the alleged violation and a finding of good  
30 cause that the parolee has committed a violation of law or violated  
31 his or her conditions of parole, the supervising parole agency may  
32 impose additional and appropriate conditions of supervision,  
33 including rehabilitation and treatment services and appropriate  
34 incentives for compliance, and impose immediate, structured, and  
35 intermediate sanctions for parole violations, including flash  
36 incarceration in a county jail. Periods of "flash incarceration," as  
37 defined in subdivision (e) are encouraged as one method of  
38 punishment for violations of a parolee's conditions of parole. This  
39 section does not preclude referrals to a reentry court pursuant to  
40 Section 3015.

(f) “Flash incarceration” is a period of detention in county jail due to a violation of a parolee’s conditions of parole. The length of the detention period can range between one and 10 consecutive days. Shorter, but if necessary more frequent, periods of detention for violations of a parolee’s conditions of parole shall appropriately punish a parolee while preventing the disruption in a work or home establishment that typically arises from longer periods of detention.

(g) If the supervising parole agency has determined, following application of its assessment processes, that intermediate sanctions up to and including flash incarceration are not appropriate, the supervising parole agency shall, pursuant to Section 1203.2, petition the court in the county in which the parolee is being supervised to revoke parole. At any point during the process initiated pursuant to this section, a parolee may waive, in writing, his or her right to counsel, admit the parole violation, waive a court hearing, and accept the proposed parole modification or revocation. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of parole, the circumstances of the alleged underlying violation, the history and background of the parolee, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of parole, the court shall have authority to do any of the following:

(1) Return the person to parole supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail.

(2) Revoke parole and order the person to confinement in the county jail.

(3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court’s discretion.

(h) Confinement pursuant to paragraphs (1) and (2) of subdivision (g) shall not exceed a period of 180 days in the county jail.

(i) Notwithstanding any other law, if Section 3000.1 or paragraph (4) of subdivision (b) of Section 3000 applies to a person who is on parole and the court determines that the person has committed a violation of law or violated his or her conditions of

1 parole, the person on parole shall be remanded to the custody of  
2 the Department of Corrections and Rehabilitation and the  
3 jurisdiction of the Board of Parole Hearings for the purpose of  
4 future parole consideration.

5 (j) Notwithstanding subdivision (a), any of the following persons  
6 released from state prison shall be subject to the jurisdiction of,  
7 and parole supervision by, the Department of Corrections and  
8 Rehabilitation for a period of parole up to three years or the parole  
9 term the person was subject to at the time of the commission of  
10 the offense, whichever is greater:

11 (1) The person is required to register as a sex offender pursuant  
12 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part  
13 1, and was subject to a period of parole exceeding three years at  
14 the time he or she committed a felony for which they were  
15 convicted and subsequently sentenced to state prison.

16 (2) The person was subject to parole for life pursuant to Section  
17 3000.1 at the time of the commission of the offense that resulted  
18 in a conviction and state prison sentence.

19 (k) Parolees subject to this section who have a pending  
20 adjudication for a parole violation on July 1, 2013, are subject to  
21 the jurisdiction of the Board of Parole Hearings. Parole revocation  
22 proceedings conducted by the Board of Parole Hearings prior to  
23 July 1, 2013, if reopened on or after July 1, 2013, are subject to  
24 the jurisdiction of the Board of Parole Hearings.

25 (l) Except as described in subdivision (d), any person who is  
26 convicted of a felony that requires community supervision and  
27 who still has a period of state parole to serve shall discharge from  
28 state parole at the time of release to community supervision.

29 (m) This section shall become operative on July 1, 2013.

30 SEC. 2. Section 3451 of the Penal Code is amended to read:

31 3451. (a) Notwithstanding any other law and except for persons  
32 serving a prison term for any crime described in subdivision (b)  
33 and persons who have had a prior conviction described in  
34 subdivision (c), all persons released from prison on and after  
35 October 1, 2011, or, whose sentence has been deemed served  
36 pursuant to Section 2900.5 after serving a prison term for a felony  
37 shall, upon release from prison and for a period not exceeding  
38 three years immediately following release, be subject to community  
39 supervision provided by a county agency designated by each  
40 county's board of supervisors which is consistent with

1 evidence-based practices, including, but not limited to, supervision  
2 policies, procedures, programs, and practices demonstrated by  
3 scientific research to reduce recidivism among individuals under  
4 postrelease supervision.

5 (b) This section shall not apply to any person released from  
6 prison after having served a prison term for any of the following:

7 (1) A serious felony described in subdivision (c) of Section  
8 1192.7.

9 (2) A violent felony described in subdivision (c) of Section  
10 667.5.

11 (3) A crime for which the person was sentenced pursuant to  
12 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)  
13 of subdivision (c) of Section 1170.12.

14 ~~(4) Any crime for which the person is required to register as a~~  
15 ~~sex offender pursuant to Chapter 5.5 (commencing with Section~~  
16 ~~290) of Title 9 of Part 1, where the person eligible for release from~~  
17 ~~prison is classified as a High Risk Sex Offender.~~

18 (5) Any crime for which the person is required, as a condition  
19 of parole, to undergo treatment by the State Department of State  
20 Hospitals pursuant to Section 2962.

21 (c) This section shall not apply to any person released from  
22 prison who has a prior conviction for any of the following:

23 (1) A serious felony described in subdivision (c) of Section  
24 1192.7.

25 (2) A violent felony described in subdivision (c) of Section  
26 667.5.

27 ~~(3) A crime for which the person was sentenced pursuant to~~  
28 ~~paragraph (2) of subdivision (e) of Section 667 or paragraph (2)~~  
29 ~~of subdivision (c) of Section 1170.12.~~

30 ~~(4)~~

31 ~~(3) Any crime for which the person is required to register as a~~  
32 ~~sex offender pursuant to Chapter 5.5 (commencing with Section~~  
33 ~~290) of Title 9 of Part 1, was classified as a High Risk Sex Offender~~  
34 ~~at the time he or she was eligible for release from prison.~~

35 ~~(4) Any crime for which the person was required, as a condition~~  
36 ~~of parole, to undergo treatment by the State Department of State~~  
37 ~~Hospitals pursuant to Section 2962.~~

38 (d) (1) Postrelease supervision under this title shall be  
39 implemented by a county agency according to a postrelease strategy  
40 designated by each county's board of supervisors.

1     (2) The Department of Corrections and Rehabilitation shall  
2 inform every prisoner subject to the provisions of this title, upon  
3 release from state prison, of the requirements of this title and of  
4 his or her responsibility to report to the county agency responsible  
5 for serving that inmate. The department shall also inform persons  
6 serving a term of parole for a felony offense who are subject to  
7 this section of the requirements of this title and of his or her  
8 responsibility to report to the county agency responsible for serving  
9 that parolee. Thirty days prior to the release of any person subject  
10 to postrelease supervision by a county, the department shall notify  
11 the county of all information that would otherwise be required for  
12 parolees under subdivision (e) of Section 3003.

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